

MAR 27 2008

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN CARLOS FIERRO-CAMPAS,

Defendant - Appellant.

No. 05-10160

D.C. No. CR-04-01306-FRZ

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted March 18, 2008^{**}

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Juan Carlos Fierro-Campas appeals his 78-month sentence imposed following his guilty-plea conviction for importation of five or more kilograms of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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cocaine, in violation of 21 U.S.C. §§ 952(a) and 960(a)(1), (b)(1)(B)(ii), and possession with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(ii)(II). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Fierro-Campas contends that he is entitled to a minor role adjustment pursuant to U.S.S.G. § 3B1.2(b). We conclude that it was not clear error for the district court to deny the adjustment. *See United States v. Cantrell*, 433 F.3d 1269, 1282 (9th Cir. 2006).

Fierro-Campas also requests a remand pursuant to *United States v. Ameline*, 409 F.3d 1073, 1079 (9th Cir. 2005) (en banc). Because the district court did not treat the Sentencing Guidelines as mandatory, Fierro-Campas is not entitled to a remand.

AFFIRMED.